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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

MEDFORD DIVISION

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )      No. 1: 22-CR-00076-001-MC  
                                )  
v.                            )      SENTENCING MEMORANDUM  
                                )  
DANIEL PONCE-GONZALEZ, )  
                                )  
Defendant.                 )

Daniel Ponce-Gonzalez is a caring, observant, astute and remarkable man who faithfully raises two children and has a work ethic that provides for his family despite a lifetime bereft of real economic opportunity. He has no criminal history points (his 2007 history would likely not even exist under current case law). He has become those things despite the fact that his life started off (and remains) in extreme poverty with an abusive and alcoholic father in a community torn apart by violence. He began working at the age of 8 in the fields and was often the subject of physical abuse when he so much as asked to go play soccer. He was beaten and told that he had to work and provide for his family – that there was no time for that.

He was suffering intense physical abuse along with his mother and siblings, seeing his father get intoxicated on a daily basis, at the same time he was also growing up as a party to the violent and controlling cartel activity in his hometown. Ultimately, his family moved to the United States when he was in high school and he finished his adolescence as an alien, someone without full citizenship and with the expectation that he would work long hours in the field in order to provide for a future family and have to live a shadow life out of the view of authorities.

Beautifully, his Father has shown resilience and has found sobriety in the last ten to fifteen years, charting a path forward for Daniel at this part of his life in doing so. His connection to his family is strong despite his disparate upbringing, showing their shared values in remaining connected, being resilient as a group and learning from one another. Daniel is also a man of faith who holds dear the Catholic values his family has adopted and he is dedicated to taking the path of his father to redemption. This is the longest period of time he has ever been in custody and it has been a deep awakening, an event that has stirred him to change and one that he never wants to repeat. Daniel bears a tattoo of St. Jude, the “Patron Saint for the Hopeless and Despaired” also known as the “Patron Saint of the Impossible” because of his deeply held belief in always remaining faithful even despite great odds – and knowing that those things that seem beyond us can become possible on a path of personal and spiritual growth.

After being pulled over driving a vehicle where the passenger was a suspect in a drug investigation, he was jailed and displaced by the government back to Michoacán at the age of 23. He had established ties in the State of Washington and was already a contributing part of the American workforce in a necessary industry bringing food stability to our economy. He had been working in the fields doing cherries, apples and other local produce from Montana to

Washington and back. Suddenly, he found himself back in Mexico without family and without a viable road forward.

Daunted by the continuing poverty and violence in Michoacán, Mr. Ponce-Gonzalez made the decision to come back to Washington and continue his career. He has worked in that area as a farm laborer for the last 16 years (the last two plus of which he has been in custody) and had two children, Davian and Julian, who he speaks with every week even in custody and has a close relationship with. Due to the ICE hold on him, his parenting is likely to be remote until his sons can come and visit him. He has faithfully paid support, fulfilled and enjoyed his visitations and has provided constant assistance and a voice of reassurance with Julian's medical disability (he was born with one kidney).

As the Court is aware, the history of the people of Michoacán is that of a markedly different social structure. Until global corporate colonialism, which came first in the form of the Spanish conquest of Mexico and the Pacific Coast - then later in US interventions as our government fought to colonize Texas, New Mexico, Arizona and parts of Northern Mexico, the people of Michoacán had a significant, peaceful and well-organized collection of communities. They even resisted the warlike culture of the Aztecs. Those communities or nations relied on a principle of land stewardship and communal sharing in order to not over-harvest crops, deplete soil, over hunt the game that they relied on for meat and to ensure that, in the commons, there was always enough for those who worked to make life possible. Those societies had no slaves, committed few acts of brutality and rather than amassing wealth in the hands of a powerful few, aimed to make life as good as possible for the proverbial herd.

While we do not often discuss what happened in Mexico and in the American west as a genocide, clearly it was one. The Spaniards introduced alcohol, smallpox, Catholicism, allotment

of land and slavery to the region, holding many of the indigenous populations to work against their will. Alcohol was intentionally introduced in order to kill part of the population. During a half-century, the indigenous population of Michoacán dropped in half. After gaining its independence from the Spaniards, Mexico saw 160,000 Anglo settlers move in at the direction of the US Government in a ten year period. Those settlers would appropriate land, overhunt game in an effort to make hunting impossible, massacre indigenous peoples and weaken the existing social fabric.

When Mexico decided to make slavery illegal, the settlers were upset enough to get the attention of the government back in Washington DC and ultimately led to the war against Mexico. Before the war, the US Government shot 15,000 goats and 10,000 sheep and left them to rot across the territory in order to drive out the indigenous residents. We massacred the people of Northern Mexico en masse when there was no threat to citizens of the United States. In an effort to displace their leadership and governance, we initiated rivalries between the indigenous groups there, driving other groups South from the modern US, arming the insurgents and promising them great wealth. We see the effects of those decisions in the family structure, generational trauma and the life arc of Daniel.

Monasteries were the first outposts in the effort to ethnically cleanse the Nahua and Purepecha people (among other tribes) – and they sprang up throughout the region, mandating participation in their work camps and offering the people of the area redemption from their newfound alcoholism if they assimilated into Catholic religious culture. Education was denied to any indigenous person and was reserved for the Spanish and the Anglos. While the foundational educational structure we see today was being created, it was specifically being created to the exclusion of people like Mr. Ponce-Gonzalez and that lack of investment continued into his

childhood, where his value was seen as a laborer and he was deemed unworthy of spending time in his education.

We can also see the effects of colonialism destroying the land stewardship and installing a culture of corporate farming, largely through mono-culture crops. It took away economic viability for most lives in that region, turning them into the equivalent of indentured servants serving corporate interests in mono-culture farms across the west coast of Mexico and into the United States. In order to have a home and raise children, you have to go into debt and then rely on the farm labor to keep paying enough on the interest on that debt to be able to manage a life. Ultimately, forfeiting equity and becoming a frequent migrant is the predominant way to continue to find a place to live under those circumstances. Making it a crime to cross over the border to continue to work here, in the country that worked so hard to displace indigenous people across the Mexican border, deepens the indignity and makes it nearly impossible for the people to survive.

None of this is meant to say that Mr. Ponce-Gonzalez does not take responsibility for his own decisions – but those decisions and how we react to them cannot be viewed in a vacuum separate from recent history and the social, familial, and economic factors that led Mr. Ponce-Gonzalez to be before your Honor. Statistically, most people cannot avoid these types of behaviors when placed at the confluence of that many dehumanizing and debilitating factors.

Mr. Ponce-Gonzalez turned to narcotics as a functional working man of color who was dealing with mental health issues that were untreated given his alien status and his lack of resources. He has never been availed of drug treatment. In another world, absent an ICE hold, Mr. Ponce-Gonzalez would have been treated for his drug addiction and mental health issues and allowed to show his parenting off in order to get into a State drug court program or argue to this

Court for probation. He has, for the first time in his life, been given medication for his anxiety and mental health issues. He has a desire to get a GED and look for a new career. Instead, because of his status – and despite the historical brutality perpetuated by our government that created the conditions that made that status necessary – he is here in the current posture.

With his lack of criminal history, one would expect this case to get a sentence between 24-30 months in State Court in Oregon. Many of the criteria that determined why his case went Federal are based on his immigration hold, his nationality, his association with Michoacán and the quantity of narcotics he was asked to be a transporter (or mule, for another dehumanizing term we utilize) for.

Mr. Ponce-Gonzalez scores very high on the tool psychologists use known as the Resiliance test and his lack of history lets this court know he is not someone entrenched in a lifestyle. He can and will set the necessary boundaries to grow beyond this mistake he made. His relationship with his family evidences his humility, his relentlessness and his desire to build safe spaces for himself and those around him. The punishments of removal, incarceration, separation from his children and loss of his possessions have already been served – as well as more than two years of incarceration. While grieving those great losses, Daniel has nonetheless fostered accountability, care and a progressive growth-oriented vision for his life going forward. He is a capable man who can make these steps forward.

There is no benefit for society or for this Court in sending Mr. Ponce-Gonzalez to prison for a significant period of time prior to his deportation – nor does it truly account for all of the factors present in this case. We respectfully request the Court find that based upon the nature of this offense and the characteristics of Mr. Ponce-Gonzalez that a sentence of 30 months with credit for time served be imposed.

RESPECTFULLY SUBMITTED this December 19, 2023

/s/Justin N. Rosas  
Justin N. Rosas  
*Attorney for Daniel Ponce-Gonzalez*